

House File 2468 - Introduced

HOUSE FILE 2468
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 608)

A BILL FOR

1 An Act prohibiting the mistreatment of animals other than
2 livestock and wild animals, providing for the rescue of
3 animals by local law enforcement agencies, providing for
4 criminal offenses and court orders, and including penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 717B.1, Code 2018, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 3A. "*Convicted*" means entry of a judgment
4 of conviction under chapter 901 or adjudicated delinquent for
5 an act which is an indictable offense in this state or in
6 another state under chapter 232. "*Convicted*" does not mean a
7 plea, sentence, adjudication, deferred sentence, or deferred
8 judgment which has been reversed or otherwise set aside.

9 NEW SUBSECTION. 4A. "*Euthanasia*" means the same as defined
10 in section 162.2.

11 NEW SUBSECTION. 4B. "*Injury*" means a serious or permanent
12 functional impairment to an animal's health or functions,
13 including physical damage or harm to an animal's muscle,
14 tissue, organs, bones, hide, or skin, protracted disfigurement
15 or permanent impairment of health, or protracted loss or
16 impairment of the function of a limb or organ.

17 Sec. 2. Section 717B.2, Code 2018, is amended to read as
18 follows:

19 **717B.2 Animal abuse — penalties.**

20 1. ~~A person is guilty of animal abuse if the person~~
21 ~~intentionally injures, maims, disfigures, or destroys an animal~~
22 ~~owned by another person, in any manner, including intentionally~~
23 ~~poisoning the animal~~ commits animal abuse when the person
24 knowingly or recklessly causes injury or death to an animal by
25 force, violence, or poisoning. A person guilty of animal abuse
26 is guilty of an aggravated misdemeanor.

27 2. ~~This section~~ shall not apply to conduct engaged in by any
28 of the following:

29 ~~1. A person acting with the consent of the person owning~~
30 ~~the animal, unless the action constitutes animal neglect as~~
31 ~~provided in~~ section 717B.3.

32 a. An animal owner or a person acting with the consent of
33 the animal owner who euthanizes an animal that is of such age
34 or condition that natural death is imminent or expected in the
35 near future.

- 1 ~~2.~~ b. A person acting to carry out an order issued by a
2 court.
- 3 ~~3.~~ c. A licensed veterinarian practicing veterinary
4 medicine as provided in [chapter 169](#).
- 5 ~~4.~~ d. A person acting in order to carry out another
6 provision of law which allows the conduct.
- 7 ~~5.~~ e. A person taking, hunting, trapping, or fishing for a
8 wild animal as provided in [chapter 481A](#).
- 9 ~~6.~~ f. A person acting to protect the person's property from
10 a wild animal as defined in [section 481A.1](#).
- 11 ~~7.~~ g. A person acting to protect a person from injury or
12 death caused by a wild animal as defined in [section 481A.1](#).
- 13 ~~8.~~ h. A person reasonably acting to protect the person's
14 property from damage caused by an unconfined animal.
- 15 ~~9.~~ i. A person reasonably acting to protect a person from
16 injury or death caused by an unconfined animal.
- 17 ~~10.~~ j. A local authority reasonably acting to destroy an
18 animal, if at the time of the destruction, the owner of the
19 animal is absent or unable to care for the animal, and the
20 animal is permanently distressed by disease or injury to a
21 degree that would result in severe and prolonged suffering.
- 22 ~~11.~~ k. A research facility, as defined in [section 162.2](#),
23 provided that the research facility performs functions within
24 the scope of accepted practices and disciplines associated with
25 the research facility.
- 26 3. A person who commits animal abuse that causes injury to
27 an animal is guilty of a serious misdemeanor.
- 28 4. A person who commits animal abuse that causes death to an
29 animal is guilty of an aggravated misdemeanor.
- 30 5. Notwithstanding subsection 4, a person who commits
31 animal abuse that causes death to an animal is guilty of a
32 class "D" felony if the person has previously been convicted
33 of committing animal abuse pursuant to this section, animal
34 neglect pursuant to section 717B.3, animal torture pursuant
35 to section 717B.3A, injury to or interference with a police

1 service dog pursuant to section 717B.9, bestiality pursuant to
2 section 717C.1, or an act involving a contest event prohibited
3 in section 717D.2.

4 Sec. 3. Section 717B.3, Code 2018, is amended to read as
5 follows:

6 **717B.3 Animal neglect — penalties.**

7 1. A person ~~who impounds or commits~~ animal neglect when
8 the person owns or has custody of an animal, confines, in any
9 place, an that animal, is guilty of animal neglect if the
10 ~~person does any of the following:~~

11 ~~a. Fails and knowingly or recklessly fails to supply the~~
12 ~~animal during confinement with a sufficient quantity of food or~~
13 ~~water. provide the animal with any of the following:~~

14 a. Access to food in an amount and quality reasonably
15 sufficient to satisfy the animal's basic nutrition level to the
16 extent that the animal's health or life is endangered.

17 ~~b. Fails to provide a confined dog or cat with adequate~~
18 ~~shelter. Access to a supply of potable water in an amount~~
19 reasonably sufficient to satisfy the animal's basic hydration
20 level to the extent that the animal's health or life is
21 endangered. Access to snow or ice does not satisfy this
22 requirement.

23 ~~c. Tortures, deprives of necessary sustenance, mutilates,~~
24 ~~beats, or kills an animal by any means which causes unjustified~~
25 ~~pain, distress, or suffering. Sanitary conditions free from~~
26 excessive animal waste or the overcrowding of animals to the
27 extent that the animal's health or life is endangered.

28 d. Ventilated shelter reasonably sufficient to provide
29 adequate protection from the elements and weather conditions
30 suitable for the age, species, and physical condition of the
31 animal so as to maintain the animal in a state of good health
32 to the extent that the animal's health or life is endangered.
33 The shelter must protect the animal from wind, rain, snow, or
34 sun and have adequate bedding to provide reasonable protection
35 against cold and dampness. A shelter may include a residence,

1 garage, barn, shed, or doghouse.

2 e. (1) Veterinary care deemed reasonably necessary to
3 relieve an animal's distress from any of the following:

4 (a) A condition caused by failing to provide for the
5 animal's welfare as described in paragraphs "a" through "d".

6 (b) An injury or serious illness suffered by the animal
7 causing the animal to suffer prolonged pain and suffering.

8 (2) This paragraph "e" does not apply to an animal for which
9 the cost of such veterinary care is not reasonably affordable
10 by the animal's owner, so long as the animal's owner makes
11 appropriate and reasonable arrangements to transfer ownership
12 and possession of the animal to a person who agrees to provide
13 such care, or the animal's owner euthanizes the animal if
14 the animal suffers from a terminal illness or injury or is
15 sufficiently injured or ill and no reasonable probability
16 exists that reasonable veterinary care will alleviate the
17 injury or illness.

18 2. This section does not apply to conduct engaged in by a
19 research facility, as defined in section 162.2, provided that
20 if the research facility performs functions within the scope of
21 accepted practices and disciplines associated with the research
22 facility.

23 3. A person who ~~negligently or intentionally~~ commits the
24 offense of animal neglect that does not cause injury or death
25 to an animal is guilty of a simple misdemeanor. ~~A person who~~
26 ~~intentionally commits the offense of animal neglect which~~
27 ~~results in serious injury to or the death of an animal is~~
28 ~~guilty of a serious misdemeanor.~~

29 4. A person who commits animal neglect that causes injury to
30 an animal is guilty of a serious misdemeanor.

31 5. A person who commits animal neglect which causes death to
32 an animal is guilty of an aggravated misdemeanor.

33 6. Notwithstanding subsection 5, a person who commits
34 animal neglect which causes injury or death to an animal is
35 guilty of a class "D" felony if the person has been previously

1 convicted of animal abuse pursuant to section 717B.2, animal
2 neglect pursuant to this section, animal torture pursuant
3 to section 717B.3A, injury to or interference with a police
4 service dog pursuant to section 717B.9, bestiality pursuant to
5 section 717C.1, or an act involving a contest event prohibited
6 in section 717D.2.

7 Sec. 4. Section 717B.3A, Code 2018, is amended to read as
8 follows:

9 **717B.3A Animal torture — penalties.**

10 1. A person is guilty of animal torture, ~~regardless of~~
11 ~~whether the person is the owner of the animal, if when the~~
12 person inflicts upon the animal severe and prolonged or
13 repeated physical pain with ~~a depraved or sadistic intent~~
14 ~~to cause~~ that results in the animal's prolonged or repeated
15 suffering and injury, or death.

16 2. This section shall not apply to conduct engaged in by any
17 of the following:

18 a. A person acting to carry out an order issued by a court.

19 b. A licensed veterinarian practicing veterinary medicine as
20 provided in chapter 169.

21 c. A person carrying out a practice that is consistent with
22 animal husbandry practices.

23 d. A person acting in order to carry out another provision
24 of law which allows the conduct.

25 e. A person taking, hunting, trapping, or fishing for a wild
26 animal as provided in chapter 481A.

27 f. A person acting to protect the person's property from a
28 wild animal as defined in section 481A.1.

29 g. A person acting to protect a person from injury or death
30 caused by a wild animal as defined in section 481A.1.

31 h. A person reasonably acting to protect the person's
32 property from damage caused by an unconfined animal.

33 i. A person reasonably acting to protect a person from
34 injury or death caused by an unconfined animal.

35 j. A local authority reasonably acting to destroy an animal,

1 if at the time of the destruction, the owner of the animal is
2 absent or unable to care for the animal, and the animal is
3 permanently distressed by disease or injury to a degree that
4 would result in severe and prolonged suffering.

5 k. A research facility, as defined in [section 162.2](#),
6 provided that the research facility performs functions within
7 the scope of accepted practices and disciplines associated with
8 the research facility.

9 3. ~~a. The following shall apply to a person who commits~~
10 ~~animal torture:~~

11 ~~(1) For the first conviction, the person is guilty of an~~
12 ~~aggravated misdemeanor. The sentencing order shall provide~~
13 ~~that the person submit to psychological evaluation and~~
14 ~~treatment according to terms required by the court. The costs~~
15 ~~of the evaluation and treatment shall be paid by the person.~~
16 ~~In addition, the sentencing order shall provide that the person~~
17 ~~complete a community work requirement, which may include a work~~
18 ~~requirement performed at an animal shelter or pound, as defined~~
19 ~~in [section 162.2](#), according to terms required by the court.~~

20 ~~(2) For a second or subsequent conviction, the person is~~
21 ~~guilty of a class "D" felony. The sentencing order shall~~
22 ~~provide that the person submit to psychological evaluation and~~
23 ~~treatment according to terms required by the court. The costs~~
24 ~~of the psychological evaluation and treatment shall be paid by~~
25 ~~the person.~~

26 ~~b.~~ The juvenile court shall have exclusive original
27 jurisdiction in a proceeding concerning a child who is alleged
28 to have committed animal torture, in the manner provided in
29 section 232.8. The juvenile court shall not waive jurisdiction
30 in a proceeding concerning an offense alleged to have been
31 committed by a child under the age of seventeen.

32 4. A person who commits animal torture is guilty of an
33 aggravated misdemeanor, provided, however, that the person
34 has not been previously convicted of committing animal abuse
35 pursuant to section 717B.2, animal neglect pursuant to section

1 717B.3, or animal torture pursuant to this section.

2 5. Notwithstanding subsection 4, a person who commits
3 animal torture is guilty of a class "D" felony if the person
4 has previously been convicted of committing animal abuse
5 pursuant to section 717B.2, animal neglect pursuant to section
6 717B.3, animal torture pursuant to this section, injury to or
7 interference with a police service dog pursuant to section
8 717B.9, bestiality pursuant to section 717C.1, or an act
9 involving a contest event prohibited in section 717D.2.

10 **Sec. 5. NEW SECTION. 717B.3B Animal mistreatment — court**
11 **order — evaluation and treatment.**

12 1. At the time of a person's conviction for animal abuse
13 pursuant to section 717B.2 or animal torture pursuant to
14 section 717B.3A, a court may enter an order requiring the
15 person to undergo a psychological or psychiatric evaluation
16 and to undergo any treatment that the court determines to
17 be appropriate after due consideration of the evaluation.
18 However, the court shall enter such an order if the convicted
19 person is any of the following:

20 a. A juvenile.

21 b. An adult committing animal abuse pursuant to section
22 717B.2 or animal torture pursuant to section 717B.3A.

23 2. The costs of undergoing a psychological or psychiatric
24 evaluation and undergoing any treatment ordered by the court
25 shall be borne by the convicted person, unless the person is
26 a juvenile.

27 3. An order made under this section is in addition to any
28 other order or sentence of the court.

29 4. Any violation of the court order shall be punished as
30 contempt of court pursuant to chapter 665.

31 **Sec. 6. NEW SECTION. 717B.3C Animal mistreatment —**
32 **sentencing order — prohibitions.**

33 1. At the time of a person's sentencing for a public offense
34 committed under this chapter, a court may prohibit the person
35 from owning or obtaining custody of an animal or residing in

1 the same dwelling where an animal is kept. The period of the
2 prohibition shall be not less than one year.

3 2. Notwithstanding subsection 1, the court shall enter
4 such an order if the convicted person has committed animal
5 abuse pursuant to section 717B.2 or animal torture pursuant to
6 section 717B.3A. The period of such prohibition shall be not
7 less than five years.

8 3. The duration of a prohibition described in this
9 section commences on the date that the person is placed on
10 probation, released on parole or work release, or released from
11 incarceration or from placement in a juvenile facility.

12 4. An order made pursuant to this section is in addition to
13 any other order or sentence of the court.

14 5. Any violation of the court order described in this
15 section is a public offense and shall be punished as a simple
16 misdemeanor.

17 Sec. 7. IMPLEMENTATION OF ACT. Section 25B.2, subsection
18 3, shall not apply to this Act.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 GENERAL. This bill amends Code chapter 717B prohibiting
23 the mistreatment of certain animals, including dogs and cats,
24 but excluding other animals such as livestock (Code chapter
25 717); game, fur-bearing animals, fish, reptiles, or amphibians
26 (Code chapter 481A), unless such animal is owned, confined,
27 or controlled by a person; or a nongame animal declared to be
28 a nuisance by the natural resource commission (Code section
29 481A.42).

30 NAMED OFFENSES. The bill amends three different criminal
31 offenses in Code chapter 717B, animal abuse (Code section
32 717B.2), animal neglect (Code section 717B.3), and animal
33 torture (Code section 717B.3A). Under the bill, each of
34 the offenses includes an enhanced penalty that applies to a
35 convicted person who has previously committed any of the three

1 offenses. The enhanced penalty also applies if the convicted
2 person previously committed three other named offenses: injury
3 to or interference with a police service dog (Code section
4 717B.9); bestiality (Code section 717C.1); or an act involving
5 an animal contest (Code section 717D.2).

6 THREATENED ANIMALS — RESCUE. Currently, a local law
7 enforcement officer and local authority may rescue an animal
8 if there is cause to believe that an animal is threatened with
9 abuse, neglect, or torture as these offenses have been amended
10 (Code sections 717B.2 and 717B.5). The bill has revised
11 the elements or exceptions for each of those offenses (Code
12 sections 717B.2, 717B.3, and 717B.3A).

13 CRIMINAL OFFENSES — ABUSE. Currently, animal abuse
14 involves intentionally injuring an animal by violence or
15 poisoning. The bill replaces the intent element with that of
16 acting knowingly or recklessly. It also removes a provision
17 that exempted a person who acted with the consent of the
18 animal's owner. A new exception applies to a person who
19 euthanizes an animal due to age or condition. The bill reduces
20 the penalty from an aggravated to a serious misdemeanor for
21 committing animal abuse that causes injury and retains the
22 penalty of aggravated misdemeanor for committing animal abuse
23 that causes death. The bill provides that the aggravated
24 misdemeanor is enhanced to a class "D" felony if the person was
25 previously convicted of one of the named offenses.

26 CRIMINAL OFFENSES — NEGLECT. Currently, animal neglect
27 involves failing to provide an animal with adequate food,
28 water, or shelter, or torturing the animal. The bill rewrites
29 these requirements by requiring that an animal be furnished
30 with a number of items including adequate supplies of
31 nutritional food, access to potable water, adequate sanitary
32 conditions, ventilated shelter sufficient to provide the
33 animal with protection from extreme weather conditions, and,
34 subject to certain exceptions, necessary veterinary care.
35 The bill requires that a person must knowingly or recklessly

1 fail to provide an animal with any of these items. The bill
2 eliminates the torture element. The bill retains the criminal
3 penalty which is a simple misdemeanor. However, the penalty is
4 increased to a serious misdemeanor if the offense causes injury
5 and to an aggravated misdemeanor if the neglect causes death.
6 In a case where the animal is injured or dies, the aggravated
7 misdemeanor is enhanced to a class "D" felony if the person was
8 previously convicted of one of the named offenses.

9 CRIMINAL OFFENSES — TORTURE. Currently, animal torture
10 involves inflicting upon an animal severe physical pain with
11 depraved or sadistic intent to cause prolonged suffering or
12 death. The bill eliminates the element of intent and requires
13 that the act involve prolonged or repeated physical pain that
14 results in prolonged or repeated suffering and injury or death.
15 The bill replaces the current penalties for animal torture. A
16 person is no longer guilty of an aggravated misdemeanor for the
17 first offense and a class "D" felony for a subsequent offense.
18 Instead, a person is guilty of an aggravated misdemeanor,
19 which is enhanced to a class "D" felony if the person was
20 previously convicted of one of the named offenses. The bill
21 also eliminates a requirement that a person convicted of animal
22 torture must submit to psychological evaluation and treatment
23 which is addressed in another part of the bill.

24 COURT ORDERS. The bill provides at the time of conviction
25 for committing animal abuse or animal torture, that a person
26 may be subject to a court order requiring a psychological or
27 psychiatric evaluation and treatment. A person convicted of
28 animal abuse, animal neglect, or animal torture may also be
29 subject to a court order prohibiting the person from owning,
30 possessing, or living with an animal. A person who violates a
31 court order is guilty of a simple misdemeanor.

32 STATE MANDATE. Currently, if a threatened animal is rescued
33 by a local law enforcement officer and local authority, the
34 local authority must provide for the animal's maintenance until
35 the matter's disposition (Code sections 717B.5 and 717B.4).

1 APPLICABLE CRIMINAL PENALTIES. The criminal penalties are
2 as follows: (1) simple misdemeanor, confinement for no more
3 than 30 days or a fine of at least \$65 but not more than \$625 or
4 by both; (2) serious misdemeanor, confinement for no more than
5 one year and a fine of at least \$315 but not more than \$1,875;
6 (3) aggravated misdemeanor, confinement for no more than two
7 years and a fine of at least \$625 but not more than \$6,250; and
8 (4) class "D" felony, confinement for no more than five years
9 and a fine of at least \$750 but not more than \$7,500.